Supreme Court, U.S.
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NO. 93-725

In the Supreme Court of the United States

OCTOBER TERM, 1993

MORVANT J. CHERAMIE ET AL
Petitioners

versus

EXXON CORPORATION, SHELL OIL COMPANY AND MOBIL EXPLORATION & PRODUCING, NORTH AMERICA
Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF IN OPPOSITION OF RESPONDENT EXXON CORPORATION

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QUESTION PRESENTED FOR REVIEW

ARE THERE ANY SPECIAL AND IMPORTANT REASONS FOR GRANTING A WRIT OF CERTIORARI IN THIS UNREMARKABLE LAWSUIT GOVERNED BY LOUISIANA LAW?

STATEMENT OF THE CASE

On October 19, 1990, the petitioners filed this civil action in the United States District Court for the Eastern District of Louisiana. It arises from a dispute between the petitioners and respondents over mineral production from two tracts of land. The petitioners' complaint, as amended, alleged that Exxon Corporation and Shell Oil Company had breached a 1954 mineral lease covering one of the tracts and committed fraud by underpaying lease royalties. The fraud allegation consisted of the following statement: "Complainants show this Honorable Court that all defendants conspired to defraud petitioners due to their illiteracy and said activities continue to this day." [Amended & Supplemental Complaint, ¶ 22.] The petitioners sought money damages under Louisiana law.[1]

On May 26, 1992, the petitioners filed a motion for summary judgment against Exxon and the other defendants. Exxon and the other defendants filed cross-motions seeking dismissal of the petitioners' claims. The district court dismissed the petitioners' claims. In its written reasons, the court relied upon established principles of Louisiana law governing contracts and Federal Rule of Civil Procedure 9(b). [App. to Petition for Writ of Certiorari, at 9a-13a.]

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[1] The petitioners alleged that Shell was solidarily liable with Exxon as the assignee or sublessee of Exxon's interest in the mineral lease. The complaint also asserted that Mobil Exploration and Production North American, Inc. had failed to pay the petitioners' their proper share of mineral production from other lands not subject to Exxon's lease. Those claims involved different issues than the claims against Exxon and Shell.

The petitioners appealed the district court's judgment to the United States Court of Appeals for the Fifth Circuit. The Circuit Court affirmed the district court, again based upon basic legal principles governing fraud allegations and Louisiana mineral leases. It noted:

> . . . one of the appellees, suggests that plaintiffs' claims as set forth in their pleadings and brief are difficult to comprehend and, once comprehended, are difficult to believe. That characterization is not without merit.

Id. at 2a. The petitioners' sought a rehearing but their petition was denied on July 13, 1993.

SUMMARY OF ARGUMENT

Under this Court's Rule 10.1, a petition for certiorari will be granted only when there are special and important reasons therefor. This case involves a dispute over a mineral lease that is controlled by Louisiana law. The decision below did not involve an application of conflicting federal or state jurisprudence. Furthermore, the decision below did not involve substantive federal law. As a result, there are no special and important reasons for granting a writ of certiorari in this case and the petition should be denied.

ARGUMENT

NO SPECIAL AND IMPORTANT REASONS EXIST FOR GRANTING A WRIT OF CERTIORARI

The petitioners' petition for a writ of certiorari

should not be granted absent special and important reasons therefor. Sup. Ct. R. 10.1. Such reasons usually are conflicting decisions of the appellate courts, an important unsettled issue of federal law, or a lower court decision on a federal question that conflicts with the applicable decisions of this Court. *Id.* A principal purpose of certiorari jurisdiction is to resolve conflicts among the Circuit Court of Appeals and state courts concerning the meaning of provisions of federal law. *Braxton v. United States,* 500 U.S. ____, 111 S. Ct. 1854, 1857, 114 L.Ed.2d 385 (1991).

No special and important reasons exist for granting the petitioner's application for a writ of certiorari. This case involves a mineral lease dispute that is governed by Louisiana law. The law applied below by the Circuit Court is neither in disarray nor derived from conflicting precedent. Furthermore, no unresolved issues of federal law are presented.

Ultimately, the thrust of the petitioners' petition is that a writ should be granted because the petitioners disagree with the result below. This alone is not among the important and special reasons that determine if a writ of certiorari will be granted; otherwise, the unsuccessful party in any lawsuit would have grounds for review by this Court. As a result, there is no important issue of federal law, conflicting lower court jurisprudence, or conflict between state and federal courts that warrants granting the petitioners' petition.

CONCLUSION

There are no special and important reasons for granting a writ in this case. The petition for a writ of certiorari should be denied.

Respectfully submitted,

EXXON CORPORATION

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